

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

ROY STAFFORD

PLAINTIFF

V.

No. 4:09CV133-P-D

LAWRENCE KELLY, et al.

DEFENDANTS

ORDER

Presently before the Court is the Plaintiff's objection to an order denying appointment of counsel. The court will construe the objection as an appeal from a decision of the Magistrate Judge. A district court reviews a non-dispositive pre-trial order of the magistrate for clearly erroneous findings or a holding that is contrary to law. Fed. R. Civ. P. 72(a); *Castillo v. Frank*, 70 F.3d 382, 385 (5th Cir. 1995).

The Plaintiff filed his 42 U.S.C. § 1983 complaint on December 18, 2009. The Plaintiff will be afforded the opportunity to clarify and specifically state his claims at a *Spears* hearing set for April 29, 2010. On February 9, 2010, the Magistrate Judge denied the Plaintiff's motion for the appointment of counsel. In the order denying counsel, the Magistrate Judge correctly stated and applied the four factors set forth by the Fifth Circuit Court of Appeals. *See Jackson v. Dallas Police Dept.*, 811 F.2d 260, 262 (5th Cir. 1986).

Specifically, the Magistrate Judge found that the case was not novel or complex beyond the Plaintiff's demonstrated ability. The Judge found that he had demonstrated sufficient ability to represent himself and participate in meaningful discovery with appropriate aid given his confinement. Lastly, the Judge held that the evidence necessary to proceed would not require legal skill beyond the Plaintiff's capabilities.

After reviewing the record and submissions, the court is convinced that the Magistrate

Judge's denial of counsel, was neither clearly erroneous or contrary to law. *Baranowski v. Hart*, 486 F.3d 112 (5th Cir. 2007). Accordingly, the Plaintiff's appeal (docket entry 15) is DENIED.

SO ORDERED, this the 16th day of February 2010.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE